

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYMBOLOGY INNOVATIONS, LLC,

Plaintiff,

v.

BOUNCE ENERGY, INC., ET AL,

Defendants.

Civil Action No. 2:17-cv-00784-JRG-RSP

CONSOLIDATE LEAD CASE

JURY TRIAL DEMANDED

**SYMBOLOGY INNOVATIONS, LLC’S RESPONSE TO DEFENDANT CITGO
PETROLEUM CORPORATION’S MOTION FOR JUDGMENT ON THE PLEADINGS**

Plaintiff Symbology Innovations, LLC (“Symbology”) respectfully responds to Defendant CITGO Petroleum Corporation’s Motion for Judgment on the Pleadings [Dkt. 12] and would show the Court as follows:

Plaintiff has filed an Amended Complaint concurrently with this Response. As such, the motion is no longer based on the operative Complaint in this case. The amendment is based on the recent opinion of the Federal Circuit in *Aatrix Software* and alleges that the asserted inventions are not conventional and thus not subject to dismissal under Rule 12.

Plaintiff requests that the motion be denied as moot as this Court did in similar circumstances in *IDB Ventures, LLC v. DSW INC.*, 2:17-cv-524, Dkt. No. 18 (citing *Calloway v. Green Tree Servicing, LLC*, 599 F. Supp. 2d 543, 546 (D. Del. 2009) (“As the amended complaint has superseded the original, defendant’s motion to dismiss has become moot”).

Dated: April 9, 2018

Respectfully submitted,

/s/ Thomas C. Wright
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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being notified of the filing of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 9th day of April, 2018.

/s/ Thomas C. Wright
Thomas C. Wright